

## **Chapter 71**

### **LICENSING**

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**[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring 3-18-1992 as L.L. No. 1-1992.<sup>11</sup> Amendments noted where applicable.]**

### **GENERAL REFERENCES**

**Streets and Sidewalks - See Ch. 108.**

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<sup>11</sup> Editor's Note- This local law superseded former Ch. 71, Licensing, adopted 8-11-1931 as Sections 33 and 12 of the Code of Ordinances, as amended.

### **§ 71-1. Purpose and authority.**

A. Residents of the Village of Cold Spring have an inherent interest in their personal safety, comfort, well-being, and privacy, as well as their ability to receive information regarding matters of personal belief, political or charitable activities, and Goods or Services.

B. The Village has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its residents, which includes protecting residents from unwanted, harassing, and disruptive intrusions and solicitations upon residential property. The Village also has an interest in protecting residents from fraudulent, misleading, or otherwise unfair consumer sales practices, deceptive door-to-door solicitations, and criminal activity.

C. The Village adopts this Chapter to promote the Village's interests in:

- (1) Respecting residents' decisions regarding privacy in their residences;
- (2) Protecting persons from criminal conduct;
- (3) Providing equal opportunity to advocate for and against religious beliefs or political positions;
- (4) Providing equal opportunity to advocate for any charitable activities;
- (5) Permitting truthful, non-fraudulent, and non-misleading door-to-door solicitation regarding lawful Goods or Services that does not violate the property rights of any property owner or resident in the Village.

D. The Village finds that the procedures, rules, and regulations set forth in this Chapter are appropriately and narrowly tailored to preserve and protect the Village's and residents' interests, and to preserve and protect rights of those regulated.

### **§ 71-2. Definitions.**

#### **APPLICANT**

An individual who is at least 18 years of age, a corporation, a Limited

Liability Company (LLC), a Limited Liability Partnership (LLP), a partnership, a joint venture, an association, a club or any other legal Entity, a league, a fraternal organization, a joint-stock company, an estate trust, a business trust, a receiver, trustee, a syndicate or any other group acting as a unit.

### **CHARITABLE ORGANIZATION**

Any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity that is established for any Charitable Purpose; and that is tax exempt under applicable provisions of the Internal Revenue Code of 1986, as amended, and qualified to Solicit and receive tax-deductible Contributions from the public for Charitable Purposes.

### **CHARITABLE PURPOSE**

Such purposes are designed to benefit, ameliorate, or uplift humanity mentally, morally, or physically, and include relief of the poor, the distressed, or the underprivileged; religious advancement; advancement of education or science; erection or maintenance of public buildings, monuments, or works.

### **COMPETENT INDIVIDUAL**

A person at least 18 years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

### **CONTRIBUTIONS**

Includes the words alms, food, clothing, money, subscription or property.

### **DOOR-TO-DOOR SOLICITATION/HOME SOLICITATION**

To engage in or attempt to engage in conversation with any person at a residence while making or seeking to make or facilitate a sale, or attempting to further the sale of Goods and/or Services.

To make or attempt to make a sale of Goods or Services by a Registered Solicitor at a residence or premises regardless of:

1. The means of payment or consideration used for the purchase;
2. The time of delivery of the Goods or Services.

### **ENTITY**

Includes a corporation, partnership, limited liability company, or other lawful organization, society or association.

**GOODS**

One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

**HAWK OR PEDDLE**

The activity of selling or Soliciting or attempting to sell or Solicit any property, Goods or Services in any public street or place or by going from house to house, place of business to place of business, or place to place.

**LICENSE**

A temporary, annual, or renewal authorization applied for or issued pursuant to the terms of this Chapter, permitting fishing, Hawking, Peddling, Door-To-Door Solicitation or any other Solicitation in the Village as defined in this Chapter.

**PEDDLER**

See Solicitor

**POLITICAL POSITION**

Any held belief or information regardless of whether it is for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

**REGISTERED SOLICITOR**

Any person who has been issued a current License to Solicit by the Village.

**RELIGIOUS BELIEF**

Any held belief or information for, against, or in conjunction with any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice, regardless of whether or not the belief or information is endorsed by any other person or public or private Entity.

**SERVICES**

Those intangible Goods or personal benefits offered, provided, or sold

to a Competent Individual of a residence.

### **SOLICITING or SOLICIT or SOLICITATION**

Any of the following activities:

- A. Seeking to obtain sales or orders for the exchange of Goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Seeking to obtain Contributions of money or any other thing of value for the benefit of any person, Entity, Charitable or political organization;
- D. Seeking to obtain prospective customers for Goods or Services;
- E. Seeking to engage an individual in conversation at a residence or premises for the purpose of promoting or facilitating the receipt of information regarding sale or purchase;
- F. Seeking to engage an individual in conversation at a residence or premises for the purpose of promoting a Religious Belief, a Charitable Purpose or a political candidate or party.
- G. Other activities falling within the commonly accepted definition of Soliciting, such as canvassing, Hawking, or peddling.

### **§ 71-3. License to Solicit required.**

Unless exempted, (see § 71- 9), it shall be unlawful for any person to Solicit, as herein defined, without first having obtained a License to Solicit from the Village Clerk. The License to Solicit shall be carried on the person of the licensee at all times while engaging in Soliciting and shall be exhibited by the licensee to any person on demand.

### **§ 71-4. Soliciting on sidewalks; outdoor sales.**

All locations for Soliciting on sidewalks, streets, stoops or other Village owned property must first receive a License. All regulations in § 108 (Streets and Sidewalks) of this Code shall apply. The location cannot impede any fire ingress or egress and cannot block fire hydrants.

The licensee shall be solely responsible for maintaining an orderly, clean environment at all times; failure to do so will result in revocation of the License. The License to Solicit shall be prominently displayed during all

times of operation. No electrical equipment other than battery or small generator will be allowed.

#### **§ 71-5. Fees.**

License fees shall be found in the Master Fee Schedule. The amounts of the fees required may be changed or amended from time to time by resolution of the Village Board of Trustees.

#### **§ 71-6. Application for License to Solicit.**

A. Every Applicant for a License to Solicit in the Village, whether individual, business or organization, is required to submit to the Village Clerk a written application supplying, under affidavit, the following information:

- (1) The name of the individual, business or organization and the name of the person or persons applying for such License;
- (2) In detail the particular individual, business or organization for which the License is requested, specifying the residence of such person or persons or the residence of the persons composing any such firm or the principal place of business of any such Entity, and the name of the officer, in the case of an Entity, upon whom process or other legal notice may be served and also the date(s) of birth of said Person(s). Use of the License for sale of a different item(s) or a different trade or occupation than stated on the License application shall constitute a violation of this Code and shall subject said License to revocation or suspension (see § 71-11 L);
- (3) The manner or means of conveyance in which said business shall be conducted, for example, door-to-door, on foot, a stationary position, a vehicle, a cart;
- (4) The location (address, street, block) within which it is desired to engage in said business, including whether said business will be conducted from a mobile or stationary position and, if stationary, a description of the stand to be used. If from a mobile position, the number of positions, each exact position and date and time at each position must be identified. No more than one Solicitor shall be permitted to maintain a stationary stand in the same location. Any authorized location shall be permitted on a first-come-first-served basis based upon the application filing date;
- (5) Date(s) and times requested;
- (6) Whether or not the Applicant has been convicted of a crime other than a violation or minor traffic offense (see § 71-7 & § 71-12).

B. When applicable, a Solicitor must submit proof that she/he has a valid Certificate of authority from the New York State Department of Taxation and Finance to collect sales taxes.

C. If the Applicant uses scales and/or measures in connection with her/his business, she/he shall also file with her/his application a Certificate issued by the Putnam County Department of Weights and Measures that such scales and/or measures have been tested and sealed.

D. If the Applicant sells food, she/he must file proof of compliance with all Putnam County Department of Health rules and regulations.

E. The Applicant must provide proof of all necessary insurance, as determined by the Village Clerk.

F. The Applicant must produce a current photo identification card with her/his application.

G. No License shall be issued to any Applicant without a street address being listed on the application. Post Office boxes are not sufficient.

#### **§ 71-7. Criminal history check for a License to Solicit.**

It is necessary to scrutinize the background of all License Applicants for a License to Solicit.

A. Pursuant to this chapter no License to Solicit shall be issued until a criminal history check has been performed on the Applicant by the Cold Spring Police Department.

(1) If the Applicant is an individual, the Village requires  
(a) either an original or certified copy, dated no older than one hundred eighty (180) days prior to the date of the application, of a New York State Bureau of Criminal Identification (BCI) verified criminal history report personal to the Applicant, or  
(b) verification by the New York State BCI that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

(2) If the Applicant is an Entity, all requirements of § 71-7 A (1) (a) and (b) must be submitted for all officers, members and partners of the Entity, as well as for any employees who will actually be doing the solicitations,

The Village Clerk shall issue a written response to the Applicant or Registered Solicitor identifying why the License is denied or revoked.

The Applicant shall be charged the processing fee for the criminal history check performed in connection with review of her/his application. The processing fee can be found in the Master Fee Schedule.

#### **§ 71-8. Issuance of Licenses.**

A. On approval of the Village Board of Trustees, having submitted all required documentation and on having passed the criminal history check, if required, and having paid the applicable fee(s), License will be issued by Village of Cold Spring Clerk. All Licenses are valid for the time shown thereon.

B. Display required: If an Applicant is granted a License to Solicit pursuant to this chapter, she/he shall carry it on her/his person, at all times she/he is so peddling or Soliciting, and shall display such License upon request by any police officer of the Village or a person to whom such Solicitor offers merchandise for sale or is Soliciting.

C. Fishing Licenses: The Village Clerk shall approve and issue fishing Licenses using an application form specifically for this purpose. Such application shall be made by Village residents and water users only and shall only allow for use by the Applicant at the location and times provided and under the conditions set out in the License.

[Amended 6-13-2000 by L.L. 2000-7]

#### **§ 71-9. Exemptions.**

The following activities are subject to all provisions of this chapter except each shall be exempt from criminal background checks contained in § 71-7, and from the need for a License.

A. A sale conducted pursuant to an order of any court.

B. A wholesaler selling articles to dealers or merchants who have an established place of business in the Village of Cold Spring.

C. Persons delivering Goods to a residence or premises pursuant to a previously made order, or persons providing Services at a residence or premises pursuant to a previously made request by a Competent Individual.

D. The peddling of flowers, meats, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with all application, licensing and health and safety requirements of any other federal, state or local governmental body or agency of the Village, and the sale



takes place from a stationary location upon property owned or leased by the seller of such Goods.

E. Sales at a farmers' market which has been permitted by the Board of Trustees to operate within the Village.

F. Persons running for office in a local political race (Village of Cold Spring, Town of Philipstown), or their representative. These persons must carry photo ID which is visible as they are walking through the Village.

G. According to the terms of NYS General Business Law, Article 4, Sec 32, any veteran of the US armed forces who was

(1) discharged under any of the following conditions:

(a) honorably, or

(b) has a qualifying condition and has received a discharge other than bad conduct or dishonorable, or

(c) is a discharged LGBT veteran who has received a discharge other than bad conduct or dishonorable,

(2) and, is a resident of the state of New York,

(3) and, is a veteran of any war, or, has served in the armed forces of the United States overseas.

H. Charitable and religious organizations in accordance with relevant provisions of the United States Internal Revenue Code and/or New York State Tax Law

All Persons and Entities Soliciting funds solely for Charitable or religious purposes, who are exempted from the License requirements under this Chapter, shall maintain and keep records identifying all Persons Soliciting funds within the Village, and such records shall contain at least the name and the address of the Person Soliciting, the areas Solicited and the date or dates of Solicitation. Said records shall be made available for inspection by the Village Clerk upon request.

#### **§ 71-10. Permitted hours of Solicitation.**

Notwithstanding any other provisions of this Chapter to the contrary, no person shall Hawk, Peddle, vend or Solicit orders for any Goods, wares, merchandise or Services within the Village of Cold Spring on any day, before the hour of 9:00 a.m. or after one-half (½) hour before sunset or 8:00 p.m, whichever is earlier, except in the case of a Village approved event within a park or recreation area or a Village approved community event.

## **§ 71-11. Prohibited activities**

The following activities by any person or Entity, whether exempted or not, shall be unlawful and therefore prohibited:

- A. To ring a bell or knock upon the door or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents" or other wording which purports to prohibit peddling or soliciting on the premises.
- B. To Peddle, vend or sell his or her ++Goods or wares or to Solicit within two hundred (200) feet of any church or place of worship or any place occupied exclusively as a public or private school or for school purposes, or permit his or her cart, wagon or vehicle to stand on any public highway within such distance of said school, church or place of worship property,
- C. To Peddle within a radius of two hundred (200) feet of any public market or store engaged in the business of selling the same or similar Goods, wares and merchandise offered by said Peddler.
- D. To sell, vend or offer for sale any wares, foodstuffs or merchandise upon the grounds or in and about the facilities of any public recreation center or park, except in such case or instance where the Village Board has granted a concession therefor.
- E. To offer for sale any unwholesome, tainted, deleterious or diseased provisions or merchandise.
- F. To fail to keep the vehicles and receptacles used by him or her in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- G. To use loudspeakers and noise making devices. No Peddler, nor any person on his or her behalf, shall shout, cry out, blow a horn or use any sound-making device upon any street, avenue, alley, park or other public place within the Village for the purpose of attracting attention to any item of any kind or description which he or she proposes to sell.
- H. To use signs and/or displays, except as follows:
  - (1) Signs which are painted on or attached to a Peddler's vehicle, provided that the same do not exceed the dimensions of the vehicle on

which they are placed, are permitted. Use of movable, portable and freestanding signs is prohibited.

(2) Only one awning or umbrella per vehicle, which is mounted on the vehicle licensed pursuant to this section, is permitted.

I. To enter upon or engage in the business of selling, hawking, peddling or vending any property, article, product, Goods or thing from any boat or vessel on the waterways of the Village of Cold Spring without first having obtained permission of the Village Board

J. To Peddle or solicit in a congested area or in a manner which impedes the public. For the purposes of this section, the judgment of any police officer or enforcement or peace officer of the Village of Cold Spring, exercised in good faith, shall be deemed conclusive as to whether an area is congested or the public is impeded by the activities of a Peddler or solicitor.

K. Silly String or Similar Substances: To Peddle, provide or sell Silly String or similar gaseous, liquid or semi-liquid product or substance within one thousand five hundred (1,500) feet of parades, public assemblages, fairs and expositions taking place within the Village of Cold Spring.

L. In addition, it is unlawful for any Applicant to

(1) transfer or assign any License issued under the provisions of this chapter to any other person or Applicant.

(2) to facilitate or attempt to facilitate home solicitation sales with different Goods or Services

#### **§ 71-12. Persons and conditions ineligible for licensure.**

A. No License to Solicit shall be issued to any person or Applicant whose merchandise to be sold on the streets of the Village consists of souvenirs, such as artificial flowers to be worn as boutonnieres, small replicas of the American Flag or a facsimile thereof or any other souvenirs of a patriotic nature, unless sponsored by one of the bona fide local veterans' organizations.

B. No License shall be issued to any person or Applicant to sell or Solicit Goods that are sold or Services that are offered by an established business within one thousand (1,000) feet unless said License is issued to the established business.

C. No License to Solicit shall be issued to any person or Applicant who has been refused a License within the past twelve (12) months or who has had a License revoked within the past twelve (12) months,

unless the Applicant can show that the reasons for such rejection or revocation no longer exist.

D. No License to Solicit shall be issued to any person or Applicant, and, a License may be revoked, if:

- (1) the Applicant or registered solicitor is convicted of any felony or of a misdemeanor or other offense, if the same involved violence, dishonesty, deceit or moral turpitude; or
- (2) the Applicant or registered solicitor shall have been convicted of a misdemeanor or felony, which renders the Applicant unfit or undesirable to carry on the business involved; or
- (3) the Applicant or registered solicitor is currently on parole or probation to any court, penal institution, or governmental Entity, including being under house arrest or subject to a tracking device; or
- (4) the Applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or
- (5) the Applicant or registered solicitor is currently subject to a protective order, based on physical or sexual abuse, issued by a court of competent jurisdiction.

#### **§ 71-13. Suspension or revocation of License**

The Village shall either suspend or revoke a License when any of the reasons warranting the denial of a License occurs and/or for any violation of any section of this Chapter.

Upon determination to revoke or suspend a registered solicitor's License, the Village shall cause written notice to be delivered to the Applicant personally or by certified mail to the address designated in the completed application. The notice shall specify the grounds for the revocation or suspension, the documentation or information the Village relied on to make the decision, the availability of the documentation for review by applicant upon three business days' notice to the Village, and the date upon which the revocation or suspension of the License shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of revocation or suspension to appeal the same. The revocation or suspension of the License shall be effective no sooner than three (3) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances, in which case the suspension is effective immediately. The revocation or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a License automatically results in its revocation.

#### **§ 71-14. Enforcement.**

The Police Department of the Village of Cold Spring, the Code Enforcement Officer (CEO), (or such other enforcement official as may be designated by the Village Board), are charged with enforcing the provisions of this chapter and shall have the power, right and authority to issue an appearance ticket, as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any section of this chapter.

**§ 71-15. Penalties for offenses.**

Any person committing an offense against any of the provisions of this chapter shall be guilty of a violation under the Penal Law and, upon conviction thereof, shall be punishable by a fine of not more than five hundred (500) dollars or by imprisonment for not more than fifteen (15) days, or both. Each day on which such violation continues shall constitute a separate offense.

**§ 71-16. Restricted Locations. [Added 5-9-95 by L.L. 95-6]**

The following locations are not available for the activities licensed under this chapter:

<u>Street</u>	<u>Side</u>	<u>Location</u>	<u>Time</u>
West Street	Both	Entire Street	All